

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KELLY HERBERS

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 10-15035

Honorable Julian Abele Cook, Jr.

ORDER

In this lawsuit, the Plaintiff, Kelly Herbers, contends the Commissioner of Social Security was without any legitimate basis upon which to deny her application for disability insurance benefits. The case was referred to Magistrate Judge Mark A. Randon to address appropriate pretrial motions and other significant matters. When Herbers failed or declined to file a dispositive motion in accordance with the previously issued scheduling order, Magistrate Judge Randon issued an order in which Herbers was informed that if she failed to file a pleading on or before July 14, 2011, he would recommend to the Court that this case be dismissed with prejudice.

When Herbers failed to adopt Magistrate Judge Randon's wise counsel, he transmitted a report to the Court, in which he recommended the entry of a dismissal because for her failure to prosecute this action. Fed. R. Civ. P. 41(b). He also informed the parties that (1) objections to his report must be filed within fourteen days of service, and (2) the failure of either party to file objections in a timely manner would constitute a waiver any right of appeal. No objection was filed

by either party. Because no objection has been filed in this case as of this date, the parties have now waived their right to a *de novo* review and appeal of the issues in this case. Accordingly, this Court accepts and adopts Magistrate Judge Randon's recommendation, and dismisses Herber's complaint with prejudice for want of prosecution.

IT IS SO ORDERED.

Date: January 4, 2012

s/Julian Abele Cook, Jr.
JULIAN ABELE COOK, JR.
U.S. District Court Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on January 4, 2012.

s/ Kay Doaks
Case Manager